

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 130 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

RAVINDRA SHRIRAM BHOITE

Appearance:

PUBLIC PROSECUTOR for Petitioner

MR TS NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 24/03/98

ORAL JUDGEMENT

1. Heard Mr.A.J.Desai, Ld.APP for petitioner-State.
Mr.T.S.Nanavati, appeared in response to notice issued vide earlier order, dated 24.2.98 on behalf of respondent.

2. Rule. Being aggrieved and dissatisfied by the

order passed by the Ld.Addl.Sessions Judge, Baroda, dated 20.1.1998 in the proceedings of Cri.Revision Application 18/98 the State of Gujarat has preferred present Spl.Cri.A.

3. That vide impugned order the Ld.Addl.Sessions Judge has rejected the revision application of the petitioner which was filed against the order passed by the Ld.JMFC on 10.1.1998 in the proceedings of Cr.Reg.No.I 8/98 filed at Padra police Station at Vadodara district for the offences made punishable under sections 406, 409, 420, 468, 471 and 120 B of IPC. That the Ld.JMFC has rejected the remand application of the investigation officer claiming further remand of 5 days of the present respondent.

4. The respondent along with other accused are alleged to have committed offences made punishable under sections 406, 409, 420, 468, 471 and 120B of IPC as per the Cr.Reg.No.I 8/98 at Padra Police Station on the complaint filed by the State Bank of India, Padra Branch, Baroda. It is alleged in the FIR filed at Padra Police Station vide above stated Cri.Reg.No.I 8/98 that on 12.1.1998 the Padra Branch of the State Bank of India received two cheques bearing Nos 400658 and 400759 for Rs.50 lacs and Rs.1 crore respectively. That both the cheques were given to the Accountant--J.L.Parmar for preparing FDR in the name of the Executive Engineer, E Division, GIDC. The Accountant was also directed to issue FDR to the concerned party. That on subsequent enquiry it was found that the cheque bearing No.400658 for Rs.50 lacs has been deposited in the account of one M/s M.K.Industries bearing Current Account No.237 and amount has been withdrawn fraudulently from the said account. Further more, another cheque bearing No.400759 for Rs.1 crore was deposited in the account of M/s Samir Industries bearing Current Account No.238 and the amount has been withdrawn fraudulently from the said account.

5. Further more, cheque for Rs.3 crores received from Ahmedabad District Cooperative Bank was also sent to the said Accountant--J.L.Parmar for preparing FDR. However, subsequently it was found that the said cheque was deposited on 2.9.97 in the account of said M/s M.K.Industries and thereafter separately by different cheques the amount has been withdrawn. Said J.L.Parmar has issued FDR bearing No.491462 for Rs.3 crores dated 5.9.97 in the name of Ahmedabad District Cooperative Bank. It is the case of the complainant-Bank that the Accountant J.L.Parmar in conspiracy with his relatives--Sanjay Parmar and present respondent--Ravindra

Shriram Bhoite and others have committed various offences of cheating, criminal breach of trust, misappropriation etc.

6. That on registration of FIR present respondent was arrested by the police on 31.1.1998 at about 1030 p.m. That he was produced before the Ld.JMFC and the remand was claimed. That the court has granted remand of only one day till 15.1.1998. That thereafter on 15.1.1998 respondent was again produced before the said court and further remand was prayed for and thereby the court had granted remand upto 19.1.1998. On 19.1.1998 the respondent was produced before the court and the police has prayed for further remand contending that as there were several accused and voluminous documents collected during the course of investigation the police could not complete the interrogation of the accused. However, various important information regarding the said offence have been collected during the interrogation of the present respondent. The police has prayed that in order to ascertain the names of various conspirators and whereabouts of Brother-in-law of the present respondent one Anil Dore who is also alleged to have been involved in the said offence and to collect the information as to who has withdrawn Rs.10 lacs from Padra branch of SBI as well as who has opened the account in the name of M/s Samir Industries by affixing false photographs in the bank record as well as they have to collect information about the account opened by the present respondent with the Peoples Cooperative Bank in Maharashtra and MP through which various amounts have been withdrawn further remand of present respondent for five days was claimed.

7. That vide order dated 10.1.1998 the Ld.JMFC at Padra has rejected the application of the investigation officer against which the State of Gujarat had preferred Criminal Revision Application No.18/98.

8. That the Ld.Addl.Sessions Judge has heard the said revision application and vide impugned order has rejected the same.

9. The Ld.APP has taken me through the impugned order which is produced on record vide running pages 23 to 39 and has also taken me through the order passed by the Ld.JMFC which is produced at running page 16 to 22 and has urged that huge amount to the tune of Rs.4.50 crores have been defalcated by the present respondent in conspiracy with the accountant of the State Bank of India and also with remaining other accused. That as there are other accused and voluminous documents collected from

them the investigation officer could not complete the interrogation of the present respondent. During the initial interrogation of the present respondent certain important information has been received which is required to be verified by further interrogation. That as per the information received from the accused the Brother-in-Law of the present respondent--one Anil Dore is also involved and his whereabouts are required to apprehend the said accused. That as per the information of the investigation officer the present respondent has opened various accounts apart from at Peoples Cooperative Bank Baroda particularly in Maharashtra and MP wherein the defalcated amount has been deposited by the present respondent and in order to collect the information custodial interrogation of the present respondent is necessary.

10. Mr.T.S.Nanavaty has vehemently opposed the present application and has submitted that for 8 days continuously present respondent was taken on remand and he has disclosed all the information to his knowledge in respect to the said offence. The respondent has also filed affidavit in respect to certain facts known to him. That since 19th March, 1998 respondent is in judicial custody and the investigation officer should have interrogated the respondent and claim of the investigation officer for further remand is malafide and malicious and thereby present petition should be rejected.

11. I have carefully gone through the papers produced on record and the impugned order. In my opinion the Ld.Addl.Sessions Judge has failed to consider the important aspect of custodial interrogation in respect to information regarding opening of different accounts in the name of different persons to withdraw the defalcated amount from the accounts of M/s M.K.Industries and Samir Industries wherein said cheques for huge amount of Rs.4.50 crores were deposited. That in view of the fact that there are more accused involved and simultaneous interrogation has to be made it was difficult for the investigation officer to complete the interrogation within 8 days. That considering the facts and circumstances apparent on the record and in the context of rival submissions in my opinion the Ld.Additional Sessions Judge ought to have granted further remand for three days to complete the investigation particularly as claimed vide application of the investigation officer dated 10.1.1998 as produced on record vide page 16.

12. On the basis of above stated discussion the order

passed by the Id.Addl.Sessions Judge dated 28.1.1998 in the proceedings of Cri.Revn.Application No.18/98 is hereby set aside and quashed . The respondent is remanded to police custody for three days commencing from 25.3.98 till 27.3.98 and as the accused is in judicial custody the investigation officer is directed to produce the accused before the competent court at 5.00 p.m. on 27.3.98 on completion of remand period. Rule is made absolute accordingly. No costs.

13. At this stage Mr.Nanavaty has persuasively argued to stay the operation of the order atleast for three weeks so that the respondent can carry forward the order to higher forum. It is submitted that more than 60 days have passed since rejection of the application and therefore stay of operation of the order for three weeks would not make any difference. In my opinion in the facts and circumstances of the case grant of remand for three days as per the order passed in the present matter would be frustrated if the order is stayed and hence request of Mr.Nanavaty is rejected. Direct Service permitted.

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